

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: STANLEY N. COHEN, ET AL.)	Confirmation No: 3761
)	
Application No.: 10/697,720) Group Art Unit: 1642
)	
Filed: October 29, 2003) Examiner: YU, MISOOK

For: MAMMALIAN TUMOR SUSCEPTIBILITY GENES AND THEIR USES

United States Patent and Trademark Office
Mail Stop **Amendment**
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

RESPONSE TO NOTICE TO COMPLY

Sir:

On October 13, 2009 a Notice to Comply was issued, in connection with the sequence data that was presented in the application as filed. A copy of the Notice to Comply is submitted herewith. Applicants' respectfully traverse the requirement, and state they are unable to further comply. On June 29, 2004, Applicants provided the items requested, including the CRF requested, in connection with a submission entitled Response to Notice to Comply. A copy of the papers filed, together with the filing receipt therefore, is submitted herewith as Exhibit A.

On April 11, 2006 a Notice to Comply was issued, finding the CRF unsuitable, specifying a new software program available through the United States Patent and Trademark Office, and identifying inadvertent errors in the submission of June 29, 2004. On May 9, 2006, a responsive Substitute Sequence Listing, a diskette with the requested CRF, and a suitable

amendment was filed. Copies of the papers filed responsive to the April 11, 2006 Notice to Comply are submitted herewith as Exhibit B.

Since that time, in over 3 years of prosecution, including a Final Rejection, a Notice of Appeal, and Appeal Brief, and withdrawal of the final rejection followed by a new Final Rejection with the identical rejection over prior art, no further flaw has been identified in the sequence listing submitted. Although Applicants stand ready to comply with the rules upon identification of the shortcomings in the prior submission, at this time, Applicants are unable to identify such errors or shortcomings. Although item seven (7) on the Notice to Comply dated October 13, 2009 is checked, there is no attachment or continuation or other information as to what is in error with respect to the existing Sequence Listing information.

To ensure that it is not simply a case of a missing page, undersigned counsel consulted the public record for this application through the United States Patent and Trademark Office PAIR portal. In fact, that record reflects the same information, with item seven (7) checked and no further information is provided.

Accordingly, Applicants respectfully submit that any proper response to the Notice to Comply other than traversal is not immediately apparent, and respectfully requests any deadline for a substantive response be held in abeyance until such time as the error(s) in the submission of record is further identified.

CONCLUSION

In view of the foregoing evidence and remarks, Applicants respectfully request reconsideration of this Application and the prompt allowance of at least Claim 30. Further, on that basis, Applicants request allowance of Claims 31–34.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the undersigned to expedite prosecution of the application.

The Commissioner is hereby authorized by this paper to charge any fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0548.

Date: October 21, 2009

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Respectfully submitted,

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